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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,639

08/26/2003

Melvin Deien

3902

7590

04/06/2005

Mark Manley
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Sedalia, MO 65301

EXAMINER

REIS, TRAVIS M

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,639

Applicant(s)

DEIEN, MELVIN

Examiner

Travis M. Reis

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 16 & 17 are objected to because of the following informalities:

In line 1, "15" should be ---14---, in both claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 14, 16, & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers (U.S. Patent 4915088).

Powers discloses a bow sight system & bow for use in conjunction with a pin sight, the bow sight system comprising a bow (12) with a string (Figure 2), a bow sight assembly comprising a base plate (10) for mounting rearward on the bow toward the string, the base plate having a front for orienting forwardly on the bow and a rear for orienting rearwardly on the bow, the base plate having a mounting portion (22) for being mounted on the bow and a support portion extending from the mounting portion (20), the two portions substantially coplanar, the support portion of the base plate comprises a neck section (16) and an adjustment section (24), the neck section being mounted on the mounting portion, the neck section extending outwardly from the mounting portion, the adjustment section being oriented substantially transverse to a longitudinal axis of the neck section, the support portion including a support slot (25), the support slot being located on the adjustment section; the base plate being elongated in a longitudinal direction for the base plate and having a longitudinal axis; a sighting assembly (30) having a pedestal (31) slidably mounted on the

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base plate and having a channel (28) formed therein; a mast member (32) mounted on the pedestal with an end portion of the mast member being positioned in the channel of the pedestal such that a position of the mast member in the channel is adjustable along an axis extending substantially perpendicular to the plane of the support portion of the base plate; and a sight guide/block (34) mounted on the mast member and having a V-shaped sight groove (36) with a V-shaped cross section for guiding the aiming of the bow, the sight groove extending along an axis oriented substantially parallel to the plane defined by the support plate at a length (X, see below)



such that misalignment of the bow will cause a portion of the groove to obscure a view through the groove, and further such that said sight guide will obscure the archer's view below the V shaped cross section, the sighting assembly being mounted on the base plate in a manner so that the sighting assembly is adjustably movable with respect to the base plate along an axis that is substantially perpendicular to a plane of the support portion & the longitudinal axis of the base plate to permit adjustment of the position of the sight groove of the sighting assembly in horizontal & vertical directions when the invention is mounted on the bow, additionally comprising a pin sight assembly (18) mounted on the bow in a position forward of the bow away from the user such that the bow is located between the pin sight assembly and the bow sight assembly when the user draws the string of the bow (Figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-13, 17, 18, & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers in view of London (U.S. Patent 5634278).

Powers discloses all of the instant claimed invention as stated above in the rejection of claims 1-5, 14, 16, & 19, including a second pin of said pin sight being obscured by a portion of said rear sight below said sight groove (Y, see below).



Powers does not disclose a pair of alignment marks being located on opposite sides of the sight groove such that a first pin of said pin sight will form a line pattern with said alignment marks when said bow is in a proper position, or a light assembly with a light.

London discloses a bow sight with lighting means providing alignment marks (76, 78), via lights (72) supported in a lighting assembly (22, 26) located on opposite sides of the sight groove (72) such that a line pattern is formed with said alignment marks when said bow is in a proper position, or a light assembly with a light (Figure 2) in order to programmably provide accurate aiming for variable distances (col. 1 lines 38-40). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the lighting assembly, & lights disclosed by London to the base plate disclosed by Powers; and the alignment marks forming a line pattern disclosed by London to the opposite sides of the sight groove disclosed by Powers in order to programmably provide accurate aiming for variable distances.

Response to Arguments

6. With reference to claims 1, 5, 10, 14, & 19, Applicant's arguments filed that Powers does not have a sighting groove of such a length such that misalignment of the bow will cause a portion of the groove to obscure a view through the groove, these arguments have been fully considered but they are not persuasive since the sight guide is a block having a depth and thickness which will cause a small portion of the groove to obscure the view, as detailed above in paragraph 3.

7. Applicant's arguments with respect to claim 8 have been considered but are moot in view of the new ground(s) of rejection.

8. In response to applicant's argument that the lights disclosed by London are not alignment marks and would not provide alignment function on the sighting guide disclosed by Powers, these arguments have been fully considered but they are not persuasive since a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859

tmr
March 31, 2005



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

CHRISTOPHER W. FULTON
PRIMARY EXAMINER